

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARVIN HARRIS,

Plaintiff,

v.

CORRECTIONAL OFFICER CURRY, et
al.,

Defendants.

No. 1:21-cv-01452-DAD-GSA (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
MOTION TO PROCEED *IN FORMA*
PAUPERIS

(Doc. Nos. 2, 4)

Plaintiff Marvin Harris is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 5, 2022, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's application to proceed *in forma pauperis* (Doc. No. 2) be denied because: (1) he is subject to the three strikes bar under 28 U.S.C. § 1915(g); and (2) the allegations of plaintiff's complaint do not satisfy the "imminent danger of serious physical injury" exception to § 1915(g). (Doc. No. 4) (citing *Andrews v. Cervantes*, 493 F.3d 1047, 1051–55 (9th Cir. 2007)). The magistrate judge also recommended that plaintiff be ordered to pay the required \$402.00 filing fee in full in order to proceed with this action. (*Id.* at 5.) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were

1 to be filed within fourteen (14) days after service. (*Id.*) Plaintiff timely filed objections to the
2 pending findings and recommendations on January 26, 2022. (Doc. No. 5.)

3 In his objections to the pending findings and recommendations, plaintiff neither contests
4 that he has accumulated at least three prior strike dismissals, enough to be barred by the “three
5 strikes” provision, nor contends that he qualifies for the exception under the provision for
6 prisoners who face “imminent danger of serious physical injury.” *See* 28 U.S.C. § 1915(g).
7 Rather, plaintiff merely states incoherently “stop send me your bias frivolous court orders Judge’s
8 reason why.” (Doc. No. 5 at 1.) Thus, plaintiff has not meaningfully objected to the pending
9 findings and recommendations.

10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the undersigned has
11 conducted a *de novo* review of the case. Having carefully reviewed the entire file, including
12 plaintiff’s objections, the undersigned concludes that the findings and recommendations are
13 supported by the record and proper analysis.

14 Accordingly,

- 15 1. The findings and recommendations issued on January 5, 2022 (Doc. No. 4) are
16 adopted;
- 17 2. Plaintiff’s motion to proceed *in forma pauperis* (Doc. No. 2) is denied;
- 18 3. Within thirty (30) days from the date of service of this order, plaintiff shall pay the
19 \$402.00 filing fee in full in order to proceed with this action;
- 20 4. Plaintiff is forewarned that failure to pay the filing fee within the specified time
21 will result in the dismissal of this action; and
- 22 5. This matter is referred back to the assigned magistrate judge for further
23 proceedings consistent with this order.

24 IT IS SO ORDERED.

25 Dated: **January 28, 2022**

26 
UNITED STATES DISTRICT JUDGE